

Maine Revised Statutes

Title 30-A: MUNICIPALITIES AND COUNTIES
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 151: HEALTH, WELFARE AND IMPROVEMENTS
HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§3105. SMALL BORROW PITS

1. Requirements. The following provisions apply to any borrow pit not otherwise within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6, and which is not subject to a municipal ordinance enacted under subsection 2.

A. All borrow pits subject to this subsection shall comply with the following requirements.

(1) The average slope of any cut bank measured from a point located 10 feet from the boundary of any abutting property to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition.

(2) The top of the cut bank of the borrow pit shall, at no time, be closer than 10 feet from the property boundary of any abutting landowner. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Upon request of any owner of land abutting any borrow pit, the municipal officers shall conduct an inspection of the borrow pit to ascertain compliance with this subsection.

(1) The municipal officers may request the Department of Transportation, Bureau of Project Development, Construction Division, to inspect the borrow pit in place of the municipal inspection. The Construction Division shall conduct an inspection of the borrow pit in question when requested to do so by the municipal officers. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The person or persons conducting the inspection shall report their findings to the municipal officers, the abutting landowner initiating the request and the owner of the borrow pit. Measurements shall be made from the property line designated by the abutting property owner initiating the request. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. If the borrow pit is in violation of this subsection, the owner is liable for the cost of the inspection. If the borrow pit is not in violation of this subsection, the abutting landowner who made the request is liable for the cost of the inspection. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Upon notification of any violation under this subsection, the owner of the borrow pit shall bring the borrow pit into compliance with this subsection within 60 days. The municipal officers may require a shorter compliance period if they find that the violation poses an imminent danger to public safety or private property. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any owner of a borrow pit who fails to bring the borrow pit into compliance with this subsection is subject to a civil penalty not to exceed \$50 per day for every day elapsing after the expiration of the compliance schedule established under paragraph E, payable to the municipality in which the borrow pit

is located, to be recovered in a civil action brought by the municipality. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Municipal jurisdiction. A municipality may enact ordinances under its home rule authority regulating the siting, construction or operation of borrow pits not within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6. The ordinance must, at a minimum, include the requirements of subsection 1, paragraph A, but may include standards which exceed those requirements.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.